D.B. CIVIL SPECIAL APPEAL (WRIT) NO.1101/2007

Jitendra Yadav
Vs.
Vardhman Mahaveer Open University, Kota

Date of Order :: September 17, 2007.

HON'BLE THE CHIEF JUSTICE MR.J.M. PANCHAL
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. G.P. Kaushik for the appellant.

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The instant appeal is directed against judgment dated February 09, 2007 rendered by the learned Single Judge in S.B. Civil Writ Petition no.44/2007 by which the prayer made by the appellant to direct the respondent to confer on him degree of Doctor of Philosophy (Ph.D.) without any further delay and direct to award the conferred degree of Ph.D. to him in the convocation to be held on January 10, 2007, or in the alternative, to restrain the respondents from holding convocation for conferring degrees on January 10, 2007, are refused.

The appellant claims to be a Research Scholar. In order to earn Ph.D. Degree, she submitted thesis on "पंचायती राजनीति और ग्रामीन परिवर्तन का विश्लेषणात्मक अध्ययन". On the basis of thesis submitted by the appellant, she was conferred provisional Ph.D. Degree. However, the thesis submitted by the appellant was placed before the Expert Committee which found that the appellant had copied from thesis submitted earlier by other scholars. The Committee, accordingly, submitted its report to the University. The University was of the opinion that neither new facts were

discovered by the appellant nor fresh interpretation of the facts or theories was made by the appellant. The thesis submitted by the appellant did not reflect her capacity for critical examination and judgment nor it was found to be satisfactory as far as its literary presentation was concerned. As the appellant had copied from the thesis submitted earlier by other scholars, a notice dated July 28, 2005 was issued by the University calling upon her to show cause as to why the provisional PH.D. Degree conferred on her should not be forfeited and action should not be taken against her for plagiarism

On receipt of the notice, the appellant submitted her explanation. Thereafter, no action was taken and, therefore, the appellant invoked extraordinary jurisdiction of this Court under Article 226 of the Constitution by filing S.B. Civil Writ Petition no.44/2007 and claimed the reliefs referred to earlier. The learned Single Judge has dismissed the petition by judgment dated February 09, 2007 giving rise to the instant appeal.

This Court has heard the learned counsel for the appellant and considered the documents forming part of the petition.

Though in the appeal, a prayer is made to set aside the notice dated July 28, 2005 served on the appellant calling upon her to show cause as to why the provisional degree granted to her should not be forfeited and action should not be taken against her for plagiarism, the said notice was never challenged in the petition. The report submitted by Committee of Experts would indicate that the so-called research

work submitted by the appellant was never characterized either by the discovery of new facts or by a fresh interpretation of facts or theories. As mentioned in the show cause, it did not reflect the capacity of the appellant for critical examination and judgment nor the thesis was satisfactory as far as its literary presentation was concerned. On the basis of the report of the Committee, the show cause notice was issued to the appellant. This Court while exercising powers under Article 226 of the Constitution would not sit in appeal over the report submitted by a Committee comprising experts. In view of limited scope available while exercising power under Article 226 of the Constitution, this Court is of the opinion that the learned Single Judge was justified in not entertaining the prayers claimed in the petition. The Court while entertaining the writ petition, could not have directed the respondent-University to confer Ph.D. Degree on the appellant nor could have directed to award the said degree at the convocation which was to be held on January 10, 2007.

On the facts and in the circumstances of the case, this Court is of the opinion that no case is made out by the learned counsel for the appellant to interfere with the impugned judgment in the present appeal and, therefore, the appeal which lacks merits deserves dismissal.

For the foregoing reasons, the appeal fails and is dismissed.

(MOHAMMAD RAFIQ), J. (J.M. PANCHAL), CJ.

Skant/-